

On November 27, 2002 appellant, then a 42-year-old letter carrier, injured his right knee in the performance of duty: “Carrier was delivering mail on unfamiliar route and in the dark he tripped on the curb on Campbell Street while stepping up to sidewalk.” The Office accepted his claim and authorized right knee surgery, including a total knee replacement on December 6, 2006.

Appellant claimed a schedule award. His orthopedic surgeon, Dr. Joseph E. Mesa, recommended an impairment rating of 37 percent of the right lower extremity. An Office medical adviser reviewed the medical record and reported that appellant had good results from the surgery. He agreed with Dr. Mesa's rating.

In a decision dated June 18, 2007, the Office issued a schedule award for a 37 percent permanent impairment of the right lower extremity.

Appellant asks the Board to review the amount awarded and the award's expiration date: "I have suffered a great deal with the injury to my right knee and feel that the amount of compensation is less than what is equal to the suffering that I as well as my family has experienced."

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.²

ANALYSIS

Table 17-33, page 547 of the A.M.A., *Guides* divides impairment following total knee replacement into three categories: good results (37 percent), fair results (50 percent) and poor results (75 percent). Dr. Mesa, the orthopedic surgeon who performed the total knee replacement, indicated that appellant had good results. An Office medical adviser reviewed the medical record and agreed. There is no evidence that appellant has had anything less than a good result from his total knee replacement in terms of pain, range of motion, stability and alignment. The Board will affirm the Office's finding that he has a 37 percent impairment of the right lower extremity.

The Act provides 288 weeks of compensation for the total loss of a lower extremity.³ Partial losses are compensated proportionately.⁴ Compensation for a 37 percent impairment of a lower extremity is 37 percent of 288 weeks, or 106.56 weeks of compensation, which is what the Office awarded. Appellant contends that this does not adequately reflect what he and his family have gone through. Neither the Office nor the Board has the authority to enlarge the terms of the Act or to make an award of benefits other than those specified in the statute.⁵ Congress set up a

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999). Effective February 1, 2001, the Office began using the A.M.A., *Guides* (5th ed. 2001).

³ 5 U.S.C. § 8107(c)(2).

⁴ *Id.* at § 8107(c)(19).

⁵ See *Danny E. Haley*, 56 ECAB 393 (2005).

system that compensates permanent impairment with the payment of a specified number of weeks of compensation. The amount payable pursuant to a schedule award does not take into consideration the effect that the impairment has on employment opportunities, wage-earning capacity, sports, hobbies or other lifestyle activities.⁶ As noted, neither the Office nor the Board may award appellant more compensation than he is entitled to under the law. He retains the right to file a claim for an additional award should the medical evidence establish that the extent of impairment to his right leg has increased.

CONCLUSION

The Board finds that appellant has no more than a 37 percent permanent impairment of his right lower extremity.

ORDER

IT IS HEREBY ORDERED THAT the June 18, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 18, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁶ See *Dennis R. Stark*, 57 ECAB ____ (Docket No. 05-1826, issued January 10, 2006).